

WILMERHALE

November 17, 2023

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VIA ECF

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The Honorable James Donato  
United States District Judge for the Northern District of California  
450 Golden Gate Avenue, Courtroom 11, 19th Floor  
San Francisco, CA 94102

Re: *Klein v. Meta Platforms, Inc.*, Case No. 3:20-cv-08570-JD

Dear Judge Donato:

Meta respectfully requests that the Court deny User Plaintiffs permission to bring one of their putative experts, Joseph Farrell, to the concurrent class certification expert proceeding on December 5, 2023. As it stands, the hot tub is crowded, with Users planning to bring four experts, Advertisers planning to bring another four, and Meta planning to bring three to cover both cases. The Court can alleviate some of that congestion because, based on the parties' joint statement regarding the class certification concurrent expert proceeding, Dkt. 704, there is no area of disagreement relating to market definition identified for discussion and thus no subject matter for Farrell to speak on. Nor has Meta filed a *Daubert* motion with respect to Farrell's opinions at the class certification stage.

Users purport to offer Farrell's opinion as to market definition, but Farrell has, by his own admission, not reached any conclusion on that topic:

[REDACTED]

Tr. 89:25–90:5.<sup>1</sup>

[REDACTED]

Tr. 104:21–10.

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<sup>1</sup> Emphasis added, objections omitted throughout.

<sup>2</sup> To be clear, Meta does dispute whether Users’ showing on market definition suffices for class certification, *see* Dkt. 669-01 at 16–18, but it does so through its class-certification opposition, not through competing expert testimony. Meta expects to address the issue at the hearing on Users’ motion for class certification.

WILMERHALE

Judge Donato  
November 17, 2023  
Page 3

Respectfully submitted,

By: /s/ Sonal N. Mehta

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*Attorney for Defendant Meta Platforms, Inc.*